

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen DiFiore	Team: Squad #7	CCRB Case #: 201907649	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/27/2019 11:59 AM	Location of Incident: § 87(2)(b)	Precinct: 46	18 Mo. SOL 2/27/2021	EO SOL 10/14/2021	
Date/Time CV Reported Wed, 08/28/2019 12:58 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 08/28/2019 12:58 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Tyrone Seely	07393	951231	046 PCT
2. SGT Erica Lloyd	02730	930576	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joshua Martinez	00405	961542	046 PCT
2. POM Ronald Hobson	17689	941908	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Tyrone Seely	Abuse: Police Officer Tyrone Seely failed to obtain language interpretation services for § 87(2)(b)	§ 87(2)(b)
B.SGT Erica Lloyd	Abuse: Sergeant Erica Lloyd failed to obtain language interpretation services for § 87(2)(b)	§ 87(2)(b)
C.POM Tyrone Seely	Abuse: Police Officer Tyrone Seely threatened to arrest § 87(2)(b)	§ 87(2)(b)
D.POM Tyrone Seely	Abuse: Police Officer Tyrone Seely threatened to issue a summons to § 87(2)(b)	§ 87(2)(b)

Case Summary

On August 28, 2019, § 87(2)(b) filed the following complaint via the CCRB call processing system. BWC and a cell phone video were received for this case (Board Review 01-04).

On August 27, 2019, at approximately 11:59 p.m. at the intersection of Bush Street and Grand Concourse in the Bronx, PO Tyrone Seely and Sgt. Erica Lloyd of the 46th Precinct responded to a dispute over a parking space. § 87(2)(b) was holding a parking spot outside of her apartment building at § 87(2)(b) for her husband, § 87(2)(b) who is a Spanish speaker with limited English proficiency and was preparing to park his car, which was nearby.

PO Seely and Sgt. Lloyd told a Spanish-speaking police officer, PO Joshua Martinez, to not speak Spanish to § 87(2)(b) (**Allegations A and B: Abuse of Authority, § 87(2)(b)** PO Seely allegedly threatened to arrest § 87(2)(b) (**Allegation C, Abuse of Authority, § 87(2)(b)** PO Seely also threatened to give § 87(2)(b) a summons (**Allegation D, Abuse of Authority, § 87(2)(b)**

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Tyrone Seely failed to provide language interpretation services to § 87(2)(b).

Allegation (B) Abuse of Authority: Sergeant Erica Lloyd failed to provide language interpretation services to § 87(2)(b).

§ 87(2)(b) said in her CCRB statement that she was standing in a parking spot in front of § 87(2)(g) when a group of men told her that she cannot hold a parking spot due to the fact that another driver wanted to park there (Board Review 05). At this time, § 87(2)(b) was getting his car, which was double parked on the corner of Bush Street and the Grand Concourse, so that he could park it in the spot that § 87(2)(b) was holding.

§ 87(2)(b) argued with the group for a few minutes when PO Seely and Sgt. Lloyd arrived. § 87(2)(b) then approached the scene to speak with the officers.

In his CCRB statement, § 87(2)(b) said he speaks enough English for him to work at his job as a plumber but does not know enough English to translate to Spanish (Board Review 06). He described himself as knowing 30 percent of the English language. § 87(2)(b) also said that he told the officers that he was not comfortable translating English to Spanish. § 87(2)(b) further stated that when he tried to speak Spanish to one of the officers, PO Seely told this officer that he speaks English.

In his CCRB statement, PO Seely said that § 87(2)(b) spoke with him in English with no apparent language barriers (Board Review 07). PO Seely also said that he believed § 87(2)(b) was drunk due to walking off balance and having watery eyes. After being presented with his BWC from this incident, PO Seely added that § 87(2)(b)'s speech was slurred. At 2:00 in his BWC, PO Seely tells § 87(2)(b) multiple times to sit down in English, and then he eventually says it in Spanish (Board Review 01). PO Seely thought that § 87(2)(b) was not listening because he was intoxicated, which is why he ultimately said it in Spanish.

PO Seely called for another unit to come to the scene to issue a breathalyzer test on § 87(2)(b). In her interview, Sgt. Lloyd said another unit with a Spanish-speaking translator was called to ensure that § 87(2)(b) understood what he was being told (Board Review 08). One of the officers who responded was PO Joshua Martinez. PO Seely was aware that PO Martinez is bilingual, but PO Seely did not request him for the purpose of acting as a translator. PO Martinez's partner, PO Ronald Hobson, issued the breathalyzer test, which came back negative.

At 2:49 in the BWC, § 87(2)(b) tries to speak to PO Martinez in Spanish. PO Seely interrupts, saying, "He speaks English. We're not going to continue with this whole Spanish." § 87(2)(b) continues to try to talk to PO Martinez in Spanish, and PO Seely says, "He speaks English perfectly well."

After the breathalyzer test came back negative, PO Seely wrote § 87(2)(b) a summons for § 87(2)(b) due to the fact that he continued to dispute the parking situation and refused to leave the scene after being told multiple times to do so. BWC at 7:32 shows that while PO Seely wrote the ticket, § 87(2)(b) asked PO Martinez in Spanish for information about the ticket and PO Martinez replied that PO Seely would explain it. At 10:12, PO Seely gives § 87(2)(b) the summons and explains that it is for § 87(2)(b). § 87(2)(b) asks if PO Martinez can translate what he is saying. PO Martinez starts to walk toward § 87(2)(b) but PO Seely instructs PO Martinez to leave, saying “Just leave - just leave. He speaks English – we’re not doing this.” In his interview, PO Seely said that the law enforcement action had concluded at that point but otherwise did not remember why he instructed PO Martinez to leave. Sgt. Lloyd can also be heard saying, “What’s the problem? He speaks English.” § 87(2)(b) replies, “No I don’t.” and then in Spanish says, “I don’t speak English.” Sgt. Lloyd also tells § 87(2)(b) “He is not authorized to translate.” In her interview, Sgt. Lloyd did not remember why she made these comments.

Patrol Guide Procedure 212-90 defines the term limited English proficient (LEP) as referring “to those individuals whose primary language is not English and who are unable to effectively read, write, speak, or understand English.

The Patrol Guide holds that “When a member of service encounters a limited English proficient (LEP) person(s) and the services of an interpreter are necessary, determine if a bilingual member of the service is readily available to interpret and whether his/her use is appropriate. Preference should be given to a readily available certified Department interpreter” (Board Review 09).

PO Seely said in his statement that § 87(2)(b) was able to speak and understand Spanish. However, his BWC depicts him telling § 87(2)(b) to sit down in Spanish. PO Seely’s reasoning for this was that he thought § 87(2)(b) would understand Spanish better due to being intoxicated. § 87(2)(g)

Sgt. Lloyd also said in her interview that a second unit was called to the scene because she believed that a Spanish-speaking officer would help § 87(2)(b) understand what was going on. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Tyrone Seely threatened to arrest § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Tyrone Seely threatened to issue a summons to § 87(2)(b)

§ 87(2)(b) said in his statement that after issuing him a summons for § 87(2)(b), PO Seely told him, “If you don’t leave in sixty seconds, I’m going to arrest you.” At this point, § 87(2)(b) and his wife left the scene. PO Seely denied that he ever threatened to arrest § 87(2)(b) during this incident.

PO Seely’s BWC does not capture PO Seely threatening to arrest § 87(2)(b). However, at 10:40, PO Seely threatens to issue § 87(2)(b) another summons. PO Seely said in his interview and on

BWC that § 87(2)(b) could have received additional fines for double parking and for blocking a bicycle lane. At 10:59, a car double parked in a bicycle lane is visible on camera. § 87(2)(b) also said in his statement that he exited his vehicle to speak with the officers before he could park his car.

Section 1202 of the Vehicle and Traffic Law states, “Except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall stop, stand or park a vehicle on the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street” (Board Review 10).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- Police Officer Tyrone Seely has been a member of service for 8 years and a subject in 6 prior CCRB complaints and 14 prior allegations, the following of which were substantiated.
 - 201609849 involved a substantiated allegation of a premises entered and/or searched against PO Seely. The Board recommended formalized training and the NYPD imposed formalized training.
 - 201901704 involved a substantiated allegation of retaliatory summons against PO Seely. The Board recommended command level instructions and the NYPD has not yet imposed discipline.
 - § 87(2)(g)
- Sergeant Erica Lloyd has been a member of service for 17 years and a subject in 4 prior CCRB complaints and 10 prior allegations, of which 3 were substantiated.
 - 201104417 involved a substantiated allegation of a frisk against Sgt. Lloyd. The Board recommended charges and the NYPD imposed no discipline.
 - 201107410 involved substantiated allegations of stop and frisk against Sgt. Lloyd. The Board recommended charges and the NYPD imposed no discipline.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of the date of this report, the New York City Office of the Comptroller has not returned any Notices of Claims being filed in regard to this complaint.

Squad No.: 7

Investigator: Stephen DiFiore Inv. Stephen DiFiore 5/13/2020
Signature Print Title & Name Date

Manager Vanessa Rosen
Squad Leader: Signature Print Title & Name May 13, 2020
Date

Reviewer: Signature Print Title & Name Date